

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

**UNITED STATE DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

2012 AUG -8 AM 11: 09

DEPUTY CLERK

*CBF*

**JUDY B. KILLEN,**

**Plaintiff,**

**v.**

**Civil Action No.**

**RELIANCE STANDARD  
LIFE INSURANCE COMPANY,**

**5 - 1 2 CV - 1 3 7 - C**

**Defendant.**

**COMPLAINT**

COMES NOW, Plaintiff, JUDY B. KILLEN, by and through the undersigned counsel and hereby files her Complaint of the Defendant, RELIANCE STANDARD LIFE INSURANCE COMPANY, and states the following:

**I. JURISDICTION AND VENUE**

1. Plaintiff's claims are filed pursuant to 29 U.S.C. § 1001, *et seq.* (ERISA). Venue and jurisdiction are, therefore, proper pursuant to 29 U.S.C. § 1132.

**II. PARTIES**

2. Plaintiff, JUDY B. KILLEN, is a resident of Lubbock, Lubbock County, Texas. Plaintiff was an employee of Covenant Health Systems and was an eligible plan participant of the Group Long Term Disability Insurance plan at all times material to this action.

3. Defendant, RELIANCE STANDARD LIFE INSURANCE COMPANY hereinafter ("RELIANCE"), is the insurer and administrator for the Group Long Term Disability Insurance plan at issue in this cause. Defendant has a principal place of business at 2001 Market Street, Suite 1500, Philadelphia, PA 19103-7090, and service of process may be had on its registered agent, CT Corporation System, 350 N. Saint Paul Street, Dallas, Texas, 75201, or an officer of Defendant at its above address.

### III. FACTS

4. As part of Plaintiff's compensation package, Defendant Reliance agreed to provide an insurance plan for long term income disability benefits ("long term plan"), Policy No. LTD 115891, constituting a binding contract of insurance between the parties.

5. The purpose of a long term plan was to provide JUDY B. KILLEN long term disability benefits in the event she became disabled.

6. JUDY B. KILLEN has suffered and continues to suffer from numerous disabling conditions, including, but not limited to, a severe rotator cuff tear to her right shoulder that is irreparable, severe and chronic pain and stiffness to her neck and back, and further severe physical limitations due to a cervical fusion and osteoarthritis, all causing sever and continuous pain. Such disabling conditions caused and continue to cause Plaintiff to be totally disabled as that term is defined in the long term plan.

7. JUDY B. KILLEN was unable to perform the duties of her occupation in early 2009, and on or around May 2009, JUDY B. KILLEN was forced to leave her occupation due to her disabling medical conditions. JUDY B. KILLEN informed RELIANCE that she was unable to return to return to work due to her disabling conditions and submitted a claim for long term disability benefits. JUDY B. KILLEN's physicians communicated to RELIANCE that she was totally disabled

8. RELIANCE commenced disability benefits for Plaintiff on or about May 2009.

9. JUDY B. KILLEN has been found disabled by the Social Security Administration and has received and continues to receive Social Security Disability Income benefits.

10. RELIANCE forwarded a letter dated May 20, 2011, to JUDY B. KILLEN stating that long term disability benefits were being terminated and stating that she was capable of "sedentary" level work capacity.

10. JUDY B. KILLEN initiated an appeal of the denial of the long term disability benefits, pursuant to the terms of the Group Long Term Disability Insurance, and RELIANCE has continued their denial of long term disability benefits.

11. JUDY B. KILLEN has exhausted all administrative remedies under ERISA.

#### **IV. COUNT 1: BREACH OF CONTRACT/LTD BENEFITS**

Plaintiff incorporates the allegations contained in Paragraphs 1 through 11 as if fully stated herein and states further that:

12. JUDY B. KILLEN continues to be totally disabled as that term is defined in the Group Long Term Disability Insurance plan, such total disability continuing from early 2009 to the present.

13. RELIANCE has breached its contract with Plaintiff by terminating Plaintiff from the long term disability benefits, and RELIANCE has failed and refused to honor its obligations under the Group Long Term Disability Insurance plan.

14. Plaintiff is entitled to all benefits of the plan, including future and past due long term disability benefits, plus prejudgment interest retroactive to June 2, 2011, the date such long term disability benefits were terminated. Such long term benefits were terminated despite the medical records and clear opinions of the physicians who had personally and continuously treated the Plaintiff.

15. Plaintiff is entitled to the benefits identified herein because:

- a. the benefits are permitted benefits under the plan;
- b. Plaintiff has satisfied all conditions to be eligible to receive the benefits;
- c. Plaintiff has not waived or otherwise relinquished her entitlements to the benefits.

### **V. COUNT II: ATTORNEY'S FEES**

Plaintiff incorporates the allegations contained in Paragraphs 1 through 15 as if fully stated herein and states further that:

16. Plaintiff is entitled to reasonable attorney's fees and costs of this action pursuant to 29 U.S.C. § 1001, *et. seq.*, and 29 U.S.C. § 1132(g)(1).

### **VI. RELIEF REQUESTED**

Plaintiff incorporates the allegations contained in Paragraphs 1 through 16 as if fully stated herein and states further that:

17. As a result of the acts and/or omissions of Defendant, RELIANCE owes the Plaintiff unpaid long term disability benefits, plus interest.

18. Plaintiff seeks a declaration by the Court that Plaintiff is totally disabled as that term is defined in the long term plan, and has remained so since the commencement of paid benefits by Defendant, and that disability benefits pursuant to the plan should be reinstated.

19. Defendant RELIANCE is liable for Plaintiff's attorney's fees and costs of litigation in an amount to be proven at trial.

### **VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, JUDY B. KILLEN, prays for a judgment against the Defendant RELIANCE for the relief as plead herein, and for such other equitable relief as this Honorable Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF HAROLD H. PIGG



HAROLD H. PIGG

State Bar No. 16005000

P.O. Box 6887

Lubbock, Texas 79493-6887

Telephone: (806) 785-1500

Facsimile: (806) 785-1565

## CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Judy B. Killen

## DEFENDANTS

Reliance Standard Life Insurance Company

(b) County of Residence of First Listed Plaintiff Lubbock County, Texas  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Offices of Harold H. Pigg, P.O. Box 6887, Lubbock, TX 79493  
(806) 785-1500

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. § 1001

Brief description of cause:

Suit for disability benefits under contract of insurance (ERISA)

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S)

PENDING OR CLOSED: (See instructions):

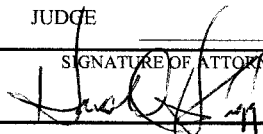
JUDGE

DOCKET NUMBER

DATE

8/8/2012

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

350.00

APPLYING IFP

JUDGE

MAG. JUDGE